

# **EXHIBIT 3**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE NATIONAL PRESCRIPTION : MDL No. 2804  
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OPIATE LITIGATION :  
:  
Case No. 17-md-2804  
This document relates to :  
:  
Judge Dan Aaron Polster  
Salmons v. Purdue Pharma :  
:  
L.P., et al. :  
:  
MDL Case No. 1:18-op-45268; :  
:  
:  
Flanagan v. Purdue Pharma :  
:  
L.P., et al. .  
:  
MDL Case No. 1:18-op-45405; :  
:  
:  
Doyle v. Purdue Pharma L.P., :  
:  
et al. :  
:  
MDL Case No. 1:18-op-46327 :

DEPOSITION OF

HENRY C. LEE, M.D.

March 10, 2020

Chicago, Illinois

1                   THE WITNESS: I think -- I don't want to  
2                   question Dr. Anand's qualifications or how many  
3                   babies he's seen.

4                   I just know that this is part of my  
5                   clinical practice, to see babies in general and  
6                   in my practice of taking care of babies with  
7                   NAS, but both diagnosing them but also caring  
8                   for them during the times of their symptoms and  
9                   treating them for that condition.

10               BY MR. BILEK:

11               Q.           And what methods did you use in  
12               diagnosing your 50 children?

13               A.           So in general, my practice is you align  
14               with the policies and practice of the colleagues that  
15               I practice with, and so at our institution, we use  
16               the Finnegan score to diagnose NAS.

17               Q.           And you would agree with me on that  
18               Finnegan score you found is widely used in the state  
19               of California?

20               A.           It is -- the Finnegan score or a modified  
21               version of that is the most common way that most  
22               hospitals and their practitioners use to identify and  
23               diagnose NAS.

24               Q.           When we talk about most common, we are

1 talking about 96 percent that you found in  
2 California, correct?

3 MR. HENRY: Object to form.

4 THE WITNESS: Yeah. I mean, I know that  
5 I'm an author on that study, but I don't  
6 remember the exact percentages. I think that  
7 sounds reasonable. I'd have to have it in front  
8 of me to be 100 percent sure.

9 BY MR. BILEK:

10 Q. Do you know when the -- have any  
11 information on how prevalent doctors use the Finnegan  
12 score in other parts of the country?

13 A. I'm not -- I have to admit to you, I am  
14 not -- don't have a photographic memory. So I do  
15 think that there is a study that is similarly  
16 reflecting practice across the country. And from  
17 what I remember, I think it was, again, the most  
18 common way. It wasn't the only way, but Finnegan or  
19 modified Finnegan score is a common tool that's used  
20 across the country.

21 MR. BILEK: Let's take a short -- we've  
22 been going for an hour and a half. Let's take a  
23 five-minute break.

24

1 association that they found.

2 Q. So one of the issues is -- with these NAS  
3 children is whether there are long-term problems  
4 confronting them, correct?

5 A. That could be an issue that can be  
6 studied.

7 Q. Well, let's look at the big picture here.  
8 If there are studies that say they have  
9 long-term problems, right, I mean, let's use that  
10 hypothetical such as this. We'll get to some more.  
11 I've got more for you.

12 But the issue of, if there is, wouldn't  
13 it make sense as a scientist to monitor these  
14 children to see how we can help them?

15 MR. HENRY: Object to the form of the  
16 question.

17 THE WITNESS: I think I'm agreeing -- I  
18 would agree that we should be concerned about  
19 the health of all of our children including  
20 those who are exposed to opioids.

21 BY MR. BILEK:

22 Q. And as a scientist, one of the things  
23 that would be helpful in trying to figure out these  
24 long-term problems with these children is -- one is

1 know, my personal, I guess, thoughts on what  
2 should be researched.

3 You know, it has to be taken into  
4 the broader context of all of our health care  
5 spending and research funding.

6 BY MR. BILEK:

7 Q. Well, let's put it this way:

8 Are you opposed to the appointment of a  
9 scientific panel to monitor health effects for  
10 children born with NAS?

11 MR. HENRY: Object to the form of the  
12 question.

13 THE WITNESS: I guess if somebody  
14 proposed that, I wouldn't oppose that.

15 BY MR. BILEK:

16 Q. Would you be opposed to -- do you think  
17 there should be more studies of what the long-term  
18 effects are for opioid-exposed children born with NAS  
19 as a result of their mothers taking opioids?

20 A. Again, I think there's a reasonable  
21 scientific inquiry into those types of questions, as  
22 there are many other questions that I guess that we  
23 have in medicine.

24 Q. Would it be helpful, right, as a

1 scientist, you'd like to know more, right? You're a  
2 doctor. You'd like to know what's going to confront  
3 these children in the future?

4 A. I mean, I think, again, this is one part  
5 of my practice, to take care of babies with NAS, and,  
6 you know, they're -- if there was more research in  
7 this area, I think certainly I wouldn't question the  
8 pursuit of such research.

9 Q. And the issue of having the children to  
10 be monitored in order to optimize the result, is that  
11 something that you could agree would be a good thing  
12 to do?

13 A. I do think that, you know, for example,  
14 this study that we just looked at, and I'm not  
15 reviewing it comprehensively right now, but they were  
16 able to do that research using the data and the means  
17 that they had to study this question.

18 Q. Well, they found that NAS children  
19 have -- are facing complex chronic conditions in the  
20 future, right?

21 MS. HENNING: Object --

22 MR. HENRY: Object to the form of the  
23 question.  
24

1       herein, owing to the combination of inherited  
2       epigenetic changes, poor parental education, and then  
3       there are these other issues such as -- and they also  
4       include the child's home environment as factors that  
5       will affect things like brain volume.

6           Q.       Let's go to conclusions. So they sum it  
7       all up for you here in something simple. See that?

8           A.       I do see that.

9           Q.       Could you read that, please?

10          A.       This systematic review and meta-analysis  
11       suggests that POE is negatively associated with  
12       neurocognitive and motor development. These  
13       differences begin from age six months and persist in  
14       adolescence. The exact cause and the association of  
15       these findings with clinical factors and  
16       environmental adversities are unclear but suggest  
17       that children with POE should be provided long-term  
18       support and intervention beyond infancy.

19          Q.       Do you agree with that?

20          A.       I think I generally agree with this  
21       sentiment that, first of all, that this association  
22       of prenatal opioid exposure is associated with -- in  
23       some studies with motor delay. And as the authors  
24       have noted, it's, again, summarized here, but these



1 MR. BILEK: Let's take a lunch break.

2 (Luncheon recess taken from

3 12:47 p.m. to 1:30 p.m.)

4 A F T E R N O O N S E S S I O N

5 BY MR. BILEK:

6 Q. I think this is noncontroversial, but my  
7 partner over here told me that we may not have  
8 established this. Opioids can cause NAS, correct?  
9 Opioid exposure causes NAS?

10 MR. HENRY: Object to the form of the  
11 question.

12 THE WITNESS: I agree that opioid  
13 exposure during pregnancy can cause NAS in the  
14 baby.

15 BY MR. BILEK:

16 Q. Okay. And as -- we have been going kind  
17 of back and forth, but what I'm going to try to do  
18 is -- and, again, this is not to be argumentative or  
19 anything, it's just I want to understand.

20 Is it your opinion that it is uncertain  
21 whether long-term effects can accrue as a result of  
22 being born with NAS?

23 A. I think there have been studies on the  
24 potential relationship of opioid exposure and NAS

1           give my opinions on some questions, and that's  
2           what I've done in my report.

3       BY MR. BILEK:

4           Q.       Well, the issue of medical monitoring for  
5       children born with NAS, is that something that you  
6       have an opinion of whether that should be conducted?

7           MR. HENRY:   Object to the form of the  
8       question.

9           THE WITNESS:   It's hard for me to answer  
10       that, I guess, general question.   Medical  
11       monitoring, I think, if that's referring to a  
12       specific program, I can't really speak to  
13       because I'm not sure what it means.   I do think  
14       that in our society all children should be  
15       followed by their pediatricians for both their  
16       health and their monitoring of development.

17                       So in that sense, I think --  
18       actually, not just children with -- who have  
19       been diagnosed with NAS but all children,  
20       hopefully, in our society, which I think is  
21       something we can continue to work on, every  
22       child should have medical monitoring throughout  
23       their childhood, including those who have NAS  
24       diagnosed as a baby.

1 study.

2 This is a survey study where an  
3 individual person answered questions about hospital  
4 practices for their unit. We did not ultimately  
5 validate whether what they said actually occurred at  
6 those hospitals, but that's just the type of study  
7 that this was, was to get a general overview of the  
8 treatment patterns and strategies and policies that  
9 hospitals had across the state in regard to NAS  
10 management.

11 Q. And relying on what these people told you  
12 on what their practice was, you would consider that  
13 to be a scientifically reasonable thing to do, right,  
14 as a researcher?

15 A. Yeah. So we thought it was a reasonable  
16 study to do, and that's why we conducted it. And we  
17 published the findings.

18 Q. So go to page 465. Okay. You talk about  
19 infant NAS assessment, and what you found was:

20 96 percent of respondents reported using  
21 the Finnegan scoring tool, correct?

22 A. That's correct.

23 Q. So when you did a survey about this in  
24 California, you found that the Finnegan scoring was

1 for infants affected by NAS, correct?

2 A. That is correct.

3 Q. And then at the end you go:

4 Additionally, longer-term health and  
5 neurodevelopment outcomes can be tracked to help  
6 establish these strategies as best practice rather  
7 than relying on short-term inpatient health outcomes  
8 alone.

9 What do you mean by that?

10 A. I think, just as these other researchers  
11 have done in the studies that, you know, you have  
12 presented today and also in my report, we can  
13 continue to study whether NAS or other associated  
14 factors may be related to outcomes that are beyond  
15 the newborn period.

16 Q. In fact, you recommended that longer-term  
17 health and neurodevelopment outcomes should be  
18 tracked, right?

19 A. Well, it says:

20 Long-term health and neurodevelopment  
21 outcomes can be tracked.

22 And I think, yeah, just as, you know, we  
23 have discussed already, I think we can always improve  
24 our practice. And so further research, I think for

1           A.       I don't know how many, but some did have  
2       prescriptions for opioids in babies that I treated  
3       for NAS.

4           Q.       Were the ones that -- on the NAS, did you  
5       have any that were -- did not involve opioids that...

6           A.       There would be patients that I took care  
7       of who -- as far as we could tell from the history  
8       and assessments that we would do, that they had not  
9       been on opioids.

10          Q.       And how many of those were there?

11          A.       Again, it's hard for me to know the  
12       number over the course of my practice, but there were  
13       some.

14          Q.       The -- and you would consider -- if they  
15       had a prescription during pregnancy, you would  
16       consider that to be opioid exposure, correct?

17          A.       If they had a prescription to opioids and  
18       the constellation of symptoms were consistent with  
19       what we know about NAS, we would call that NAS.

20                   MR. BILEK:   I pass the witness.

21                   MR. HENRY:   I have no questions of this  
22       witness.

23                   Anybody else?

24                   MS. ULLMAN:   No.